Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 49 (Chair, Environment and Transportation Committee)(By Request - Departmental - Environment)

Environment and Transportation

Environment - Building Energy Performance Standards - Compliance and Reporting

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This departmental bill alters existing requirements for the Maryland Department of the Environment (MDE) relating to the adoption of regulations that establish building energy performance standards (BEPS) for covered buildings pursuant to the Climate Solutions Now Act (CSNA) (Chapter 38 of 2022). Under the bill, the regulations must (1) include an alternative compliance pathway (ACP) that allows the owner of a covered building to pay a fee for energy use attributable to the building's failure to meet energy use intensity (EUI) targets and (2) include an annual reporting fee to cover administrative costs related to BEPS. BEPS ACP fees must be deposited into the Strategic Energy Investment Fund (SEIF); the bill makes a corresponding change to the statute governing SEIF to allow for the fee revenues to be deposited into the fund.

Fiscal Summary

State Effect: Special fund revenues increase by $900,000 annually beginning in FY 2026. The FY 2026 budget as introduced includes $1.0 million in special funds for MDE contingent upon the enactment of legislation to establish a BEPS annual reporting fee. Thus, special fund expenditures increase by $1.0 million in FY 2026; out-years reflect ongoing (indeterminate) spending. State expenditures (multiple funds) increase to pay the annual reporting fee beginning in FY 2026. Other future effects (anticipated to occur beyond FY 2030), including effects on SEIF, are described below.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
SF Revenue	$900,000	$900,000	$900,000	$900,000	$900,000
SF Expenditure	$1,000,000	-	-	-	-
GF/SF Exp.	-	-	-	-	-
Higher Ed Exp.	-	-	-	-	-
Net Effect	(-)	-	-	-	-

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local expenditures increase to pay the annual reporting fee beginning in FY 2026. Future effects (anticipated to occur beyond FY 2030) are discussed below. Local revenues are not directly affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: MDE has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment.

Analysis

Current Law:

Climate Solutions Now Act

In general: CSNA made broad changes to the State's approach to reducing statewide greenhouse gas (GHG) emissions and addressing climate change. Among other things, CSNA accelerated previous statewide GHG emissions reductions targets originally established under the Greenhouse Gas Emissions Reduction Act by requiring the State to develop plans, adopt regulations, and implement programs to (1) reduce GHG emissions by 60% from 2006 levels by 2031 and (2) achieve net-zero statewide GHG emissions by 2045.

Building Energy Performance Standards: To accomplish these goals, among other things, CSNA requires MDE to develop BEPS for covered buildings that achieve (1) a 20% reduction in net direct GHG emissions by January 1, 2030, as compared with 2025 levels for average buildings of similar construction and (2) net-zero direct GHG emissions by January 1, 2040. To facilitate the development of these BEPS, MDE must require covered building owners to measure and report direct emissions data to the department each year beginning in 2025. The provision requiring MDE to set a standard that achieves net-zero direct GHG emissions for covered buildings terminates December 31, 2029.

Implementing Regulations: CSNA also required MDE to adopt regulations to implement BEPS by June 1, 2023. The regulations must meet several specified requirements. Among other things, the regulations must (1) include EUI targets by building type, as specified; (2) provide maximum flexibility to the owners of covered buildings; (3) include an ACP allowing the owner to pay a fee for GHG emissions attributable to the building's failure to meet direct GHG emissions reduction targets; and (4) to the extent authorized by law, include financial incentives recommended by the Building Energy Transition Implementation Task Force.

MDE initiated the regulatory promulgation process to implement the required BEPS regulations in December 2023, but ultimately withdrew the regulations in December 2024. MDE finalized a second round of BEPS regulations that took effect December 23, 2024. The regulations establish BEPS and related benchmarking and reporting requirements under COMAR 26.28. However, the regulations do not include EUI standards. Under the regulations, beginning in calendar 2025, covered building owners are required to report benchmarking information for the previous calendar year by June 1.

The fiscal 2025 budget as enacted included language restricting funding for the final development and submission of EUI targets and standards regulations until MDE submits, among other things, a report on EUI costs and alternatives to EUI for meeting GHG targets.

Strategic Energy Investment Fund

SEIF, which is administered by the Maryland Energy Administration (MEA), is generally funded through the proceeds from the auction of carbon allowances under the Regional Greenhouse Gas Initiative; SEIF also receives ACP revenues generated under Maryland's renewal energy portfolio standard and will receive a portion of corporate income tax revenues from qualified data centers that are operational on or after January 1, 2026.

Among other specified uses, MEA must use SEIF to invest in the promotion, development, and implementation of (1) cost-effective energy efficiency and conservation programs, projects or activities; (2) renewable and clean energy resources; (3) climate change programs directly related to reducing or mitigating the effects of climate change; and (4) demand response programs that are designed to promote changes in electric usage by customers, as specified. SEIF must also be used to provide targeted programs, projects, activities, and investments to reduce electricity consumption by customers in low-income and moderate-income residential sectors.

Background: MDE advises that the department plans to adopt EUI standards in regulations following the submission of the required report to the General Assembly and the calculation of EUI standards based on data reported to MDE in 2026. MDE notes that EUI standards are important for promoting efficient electrification to enable Maryland's clean energy transition, minimize electricity grid impacts, and achieve Maryland's goal of net-zero GHG emissions by 2045. MDE anticipates that adding an ACP to meet EUI targets – which this bill requires – will introduce flexibility that allows building owners to evaluate the cost-effectiveness of various energy efficiency projects and ultimately assist owners with EUI compliance.

MDE notes that the revenue generated from the annual reporting fee will be used to cover administrative costs related to the BEPS program and allow MDE to purchase needed software and hire staff to provide technical support to building owners.

State/Local Fiscal Effect:

Annual Reporting Fee

Special fund revenues for the Maryland Clean Air Fund within MDE increase by approximately $900,000 annually beginning in fiscal 2026 from the annual reporting fee that MDE must establish by regulation under the bill. This estimate is based on the following information and assumptions:

- there are approximately 9,000 covered buildings in the State;
- MDE plans to charge $100 per covered building; and
- MDE promulgates the regulations and begins collecting the annual reporting fee at the end of fiscal 2026, when covered buildings owners are required to report their calendar 2025 data (by June 1, 2025).

Budgeted Funding and Ongoing Costs for the Maryland Department of the Environment

The fiscal 2026 budget as introduced includes $1.0 million in special funds for MDE contingent on the enactment of legislation to establish a BEPS annual reporting fee, which this bill effectuates. Thus, special fund expenditures increase by $1.0 million in fiscal 2026. Based on the anticipated timing regarding the collection of fee revenues (in June 2026, at the end of fiscal 2026) and the estimated fee revenues generated in fiscal 2026 ($900,000), DLS advises that it is likely that MDE does not have sufficient special fund revenues or fund balance in the Maryland Clean Air Fund to cover the contingent special fund appropriation. Accordingly, a general fund deficiency appropriation may be needed in fiscal 2026; any such impact has not been reflected in this analysis.

In future years, it is assumed that special fund expenditures continue, likely at a level consistent with the anticipated costs for MDE to hire staff and establish and maintain an online reporting system as planned. Specifically, beginning in fiscal 2027, MDE anticipates using the available special fund revenues generated by the bill to cover administrative costs related to the BEPS program. MDE advises that it plans to hire six employees (five regulatory and compliance engineers and one Assistant Attorney General) at the start of fiscal 2027 to administer the BEPS program and to establish and maintain an online reporting system for covered buildings. Associated administrative expenditures total $880,332 in fiscal 2027, increasing to $912,068 by fiscal 2030. The fiscal 2027 estimate reflects salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including costs to establish an online reporting system ($225,000). Future year estimates reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses, including costs to maintain the online reporting system.

DLS notes that although the bill provides a funding source that enables MDE to hire additional staff to implement the BEPS program, consistent with the department's original estimate of staffing needs to implement CSNA, *the bill itself does not necessitate additional expenditures or require additional staff*. Thus, this analysis reflects spending in the out-years due to the availability of the fee revenue generated by the bill but does not quantify such expenditures. The fiscal and policy note for Chapter 38 (Senate Bill 528) included a discussion of the potential administrative costs to MDE related to implementing the BEPS provisions.

State/Local Expenditures to Pay the Annual Reporting Fee: State agencies and local governments that own affected covered buildings are subject to the annual reporting fee that must be established by MDE under the bill. Thus, State expenditures (multiple funds) and local government expenditures increase beginning in fiscal 2026 to pay the fee. As noted above, MDE plans to establish a fee of $100 per covered building. However, a reliable estimate of the increase in costs for the State and local governments cannot be made, as DLS does not have sufficient information about the total number of State- and local government-owned covered buildings that will be subject to the fee.

Alternative Compliance Pathway for Energy Use Intensity Targets – State/Local Effects

Strategic Energy Investment Fund: The amount of special fund revenues collected in the future from ACP fees for EUI targets under the bill – and deposited into SEIF – is unknown. However, ACP fee revenue is potentially significant once the EUI targets take effect. Thus, SEIF revenues for MEA increase, potentially significantly, beginning as early as fiscal 2031 from ACP fees paid by owners of covered buildings that fail to meet EUI targets.

Payment of Alternative Compliance Pathway Fee by State Agencies and Local Governments: State agencies and local governments are subject to CSNA's BEPS requirements, and as a result, State expenditures (multiple funds) and local expenditures may be affected as early as fiscal 2031 from the ACP established by MDE under the bill for EUI targets. However, a reliable estimate of any impact on State and local finances resulting from the ACP for EUI targets is not feasible. MDE advises that the establishment of an ACP for EUI targets may ultimately assist covered building owners to control the cost of compliance with BEPS.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 256 (Chair, Education, Energy, and the Environment Committee)(By Request - Departmental - Environment) - Education, Energy, and the Environment.

Information Source(s): Anne Arundel, Cecil, Frederick, and Prince George's counties; cities of Baltimore and Frederick; Maryland Association of Counties; Maryland Municipal League; University System of Maryland; Morgan State University; Maryland Department of the Environment; Department of General Services; Department of Housing and Community Development; Maryland Department of Labor; Maryland Department of Transportation; Maryland Energy Administration; Department of Legislative Services

Fiscal Note History: First Reader - February 11, 2025
js/lgc

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Environment - Building Energy Performance Standards - Compliance and Reporting

BILL NUMBER: HB 49

PREPARED BY: Hadley Anthony

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

_X_ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

To the extent that this bill has an economic impact on Maryland's small businesses, it will provide more flexibility to comply with BEPS regulations. This flexibility will lead to cost saving measures that otherwise would not be available without the alternative compliance outlined in this bill.